

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company	:	
	:	
Reconciliation of revenues collected under Rider EDA with the actual costs associated with energy efficiency and demand response programs.	:	Docket No. 10-0537
	:	
	:	

**BRIEF ON EXCEPTIONS OF THE STAFF
OF THE ILLINOIS COMMERCE COMMISSION**

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Staff of the Illinois Commerce Commission (“Staff”), by and through its counsel, pursuant to Section 200.830 of the Rules of Practice (83 Ill. Adm. Code 200.830) of the Illinois Commerce Commission (“Commission”), respectfully submits its Brief on Exceptions to the Proposed Order (“Proposed Order” or “PO”) issued by the Administrative Law Judge (“ALJ”) on July 10, 2012 in the above-captioned matter.

The PO was issued following conclusion of the evidentiary hearing held on May 10, 2012 and the filing of initial and reply briefs by Staff and Commonwealth Edison Company (“ComEd”). While Staff supports the PO’s conclusions, there are a few items which Staff takes exception to as set forth below. In addition, Staff has some suggested technical corrections.

I. ARGUMENT AND EXCEPTIONS

A. Appendix to the Final Order

While the fifth ordering paragraph references Appendix A, an Appendix A was not attached to the PO. Given that the PO adopts Staff's recommended incentive compensation adjustment of \$262,929 which results in recoverable EDA costs of \$63,280,545 for plan year 2, the Appendix A previously attached to Staff's initial brief should accordingly be the Appendix adopted by the Commission and attached to the final Order. An Appendix A¹ has been attached to this brief on exception for such use.

In addition, given that Staff's Appendix A reflects Staff's adjustment of \$262,929 which the PO accepts and the Company's reconciliation does not, the first ordering paragraph needs to be modified in order to be consistent with the PO's decision adopting Staff's adjustment.

Given the above, Staff recommends that Appendix A attached to this brief be attached to the final order and that the following modification be made to the first ordering paragraph.

Proposed Modification
(PO, p. 26)

* * *

IT IS THEREFORE ORDERED that the reconciliation submitted by Commonwealth Edison Company of the energy efficiency and demand response measures and associated costs actually incurred with the revenues received under Rider EDA covering the period beginning June 1, 2009 and ending May 31, 2010, inclusive of the parties' agreed-to adjustments and Staff's adjustment of \$262,929 as detailed herein, is hereby approved.

* * *

¹ Appendix A attached to this brief on exceptions is the same Appendix A attached to Staff's initial brief with the exception that the header identifications "ICC Staff Exhibit 3.0, Schedule 3.1, page 1 of 4, 2 of 4, 3 of 4 and 4 of 4" have been removed from pages 1 through 4 respectively.

B. Annual Reporting of Budget to Actual Comparison

While the PO addresses Staff witness Hinman's recommendations that the Commission order the Company to: (1) provide in its Annual Rider EDA Report a comparison of its EE Plan Year budgets versus actual EE expenditures by program-level and portfolio-level cost categories consistent with that presented in its energy efficiency Plan approved by the Commission; (2) consistently and accurately classify, track, and report EE expenditures in its Rider EDA Annual Report by cost categories consistent with those proposed in the Company's energy efficiency Plan; (3) provide invoices and supporting documentation for any requested cost category by EE program and it should substantiate that these expenses were reasonably and prudently incurred in future Rider EDA reconciliation proceedings; and (4) include in its direct testimony in Rider EDA reconciliation proceedings justification for significant shifts in expenditures in comparison to those forecasted in its approved energy efficiency Plan (PO, pp. 11-13) and contains an analysis and conclusion on the issue (Id., p. 13) it does not include any specific findings on the four recommendations.

However given that the Company in its reply brief argues that "Staff's Initial Brief expands Ms. Hinman's single recommendation into four recommendations" when only the first recommendation was agreed to by ComEd (ComEd RB, p. 4) and further argues that "[n]o agreement or record evidence supports the addition of recommendations (2) through (4)," Staff recommends that the Commission's final order contain specific findings on these four issues given that the Company now apparently contests recommendations (2), (3) and (4).

ComEd's argument with regard to recommendations (2), (3) and (4) is without merit in that ComEd ignores both the direct and rebuttal testimony of Ms. Hinman where

she discussed recommendations (2), (3) and (4). (Staff Ex. 2.0, pp. 7 and 13; Staff Ex. 4.0, pp. 4 and 6)² If ComEd was going to take issue with Ms. Hinman's recommendations (2), (3), and (4), ComEd should have stated so in its rebuttal or surrebuttal testimony which it did not. As a result of ComEd's actions Staff appropriately assumed the four recommendations were uncontested issues. Now however it is apparent that there are three contested issues and only one uncontested issue related to Ms. Hinman's recommendations.

With respect to Ms. Hinman's first recommendation there is no dispute that issue is uncontested. As Staff stated in its reply brief, Staff does not take issue with the Company's clarification with respect to providing in its Annual Rider EDA Report a comparison of its EE Plan Year budgets versus actual EE expenditures by program-level and portfolio-level cost categories consistent with that presented in its EE Plan approved by the Commission. The clarification being that ComEd will provide the report in a form that is substantially similar to what Staff requests so that ComEd has the flexibility "to identify the most appropriate individual cost category or categories for the various expenses, especially in cases where an expense cannot be clearly define by one cost category, but rather goes across two or more categories." (ComEd IB, pp. 6-7)

With respect to Ms. Hinman's recommendations (2), (3) and (4), similar to the first recommendation there is nothing burdensome in requiring the Company to provide the information requested by Ms. Hinman. Ms. Hinman's recommendations clearly are related to Rider EDA proceedings and were intended by her to help ensure that the Commission would have the necessary information to evaluate ComEd's expenditures in future Rider EDA proceedings. Given that the Company has failed to offer any

² Recommendations (2) and (3) were addressed both in direct and rebuttal testimony of Ms. Hinman while recommendation (4) was addressed in Ms. Hinman's rebuttal testimony.

testimony on these three recommendations and contrary to the Company's claim there is evidence in the record on recommendations (2), (3) and (4) in Ms. Hinman's testimony, accordingly the weight of the evidence supports a finding by the Commission adopting Ms. Hinman's recommendations (2), (3) and (4).

Based upon the above, Staff recommends the following modifications to the PO.

Proposed Modification Regarding Uncontested Recommendation 1
(PO, p. 25)

* * *

(7) Commonwealth Edison Company shall provide in its Annual Rider EDA Report a comparison of its EE Plan Year budgets versus actual EE expenditures by program-level and portfolio-level cost categories consistent with that presented in its energy efficiency Plan approved by the Commission but shall retain the flexibility to identify the most appropriate individual cost category or categories for the various expenses, especially in cases where an expense cannot be clearly defined by one cost category, but rather goes across two or more categories;

Proposed Modification Regarding Now Contested Recommendations (2), (3), and (4)
(PO, p. 25)

(8) Commonwealth Edison Company shall consistently and accurately classify, track, and report EE expenditures in its Rider EDA Annual Report by cost categories consistent with those proposed in the Company's energy efficiency Plan approved by the Commission but retain the flexibility to identify the most appropriate individual cost category or categories for the various expenses, especially in cases where an expense cannot be clearly defined by one cost category, but rather goes across two or more categories and shall provide invoices and supporting documentation for any requested cost category by EE program and it shall substantiate that these expenses were reasonably and prudently incurred in future Rider EDA reconciliation proceedings; and

(9) Commonwealth Edison Company shall include in its direct testimony in future Rider EDA reconciliation proceedings justification for significant shifts in expenditures across cost categories or programs in comparison to those forecasted in its approved energy efficiency Plan.

* * *

C. Filing of Annual Evaluation Reports

As discussed in the PO, the Company agreed as a courtesy to Staff to file the annual evaluation reports filed in the annual evaluation dockets in the reconciliation dockets, and to file the quarterly status reports it provides to the SAG in the original, closed Plan docket to which the quarterly status reports relate, once the reports become available. ComEd further indicated that it was not commenting on whether the reports were relevant to this docket or any other docket. Likewise Staff indicated that putting aside the issue of whether the reports were relevant the Company should still be ordered by the Commission to file the reports as agreed to between the parties. The language in the PO that the reports be filed “for informational purposes only” could be construed that the Commission was reaching a conclusion on whether the reports were in fact relevant. Given that the agreement between Staff and the Company saves the issue of relevance for another day, Staff recommends that language be deleted

Given the above, Staff recommends the following modification to the PO.

Proposed Modification
(PO, p. 14)

The Commission approves the agreement reached between ComEd and Staff. As a courtesy, ComEd will file the following once the reports become available; ~~for informational purposes only:~~ (i) the evaluation reports for a given Plan Year in the reconciliation docket for the same Plan Year; and, (ii) the quarterly status reports provided to the SAG in the original, closed Plan docket to which the quarterly status reports relate.

D. Removal of Travel Expense

With regard to the issue of an expenditure by the Company for an alcoholic beverage which the Company sought recovery for through the rider, Staff took a position which the Company did not agree with but agreed to not contest in order to

narrow issues in this matter. However, there was no separate verbal or written agreement between Staff and the Company on this issue. The PO's Commission Analysis and Conclusion's language on this issue could erroneously be interpreted to mean that there was a separate verbal or written agreement. In order to avoid such an erroneous interpretation, Staff recommends the PO be modified.

Given the above, Staff recommends the following modification to the PO.

Proposed Modification
(PO, p. 16)

Since this issue is not contested, the Commission ~~adopts~~ approves the agreement reached between ComEd and Staff with respect to Staff's recommendation on this issue.

II. TECHNICAL CORRECTIONS

- On page 19, first full paragraph, second to last line, change "IBat 13-14" to "IB at 13-14";
- On page 20, first full paragraph, third sentence, change "IBat 15" to "IB at 15";
- On page 20, first full paragraph, fourth sentence, change "Init Br. at 15" to "IB at 15"; and
- On page 20, 2nd full paragraph, second to last sentence, change "IBat 16" to "IB at 16"

III. CONCLUSION

Staff respectfully requests that the Illinois Commerce Commission approve Staff's recommendations in this docket.

Respectfully submitted,

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